

REMARKS

A. Background

Claims 1-41 are pending in the application. By this response, Applicants amended claims 1, 9, 19, 26, 32, and 35, and canceled claim 25. Accordingly, claims 1-24 and 26-41 are presented for the Examiner's reconsideration in light of the amendments and the following remarks.

B. Proposed Claim Amendments

Applicant amended claims 1, 9, 19, 26, 32 and 35. Applicants respectfully submit that the amendments to the claims do not introduce new matter, and entry thereof is respectfully requested.

C. Rejections Under 35 U.S.C. §102

The Office Action rejected claims 1-41 under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,464,618 to Michael J. Shea (hereinafter the "Shea patent"). The Shea patent discloses "[o]ne or more exercise terminals ... connected via a communications link to a central computer to form an exercise terminal network." (col. 2 l. 65-col. 3, l. 1) "A processor of the exercise terminal uses ... [an] exerciser identifier to access the database stored at the central computer." (col. 3, ll. 47-49). In the Shea patent, the exercise terminals may include exercise apparatus terminals, exercise station terminals, or exercise data input terminals. (col. 3, ll. 1-3)

An exercise apparatus terminal includes stationary bicycles, steppers, etc. (col. 5, ll. 28-30) An exercise station terminal may be located where an exercise is performed without the use of an exercise apparatus controlled by control circuitry, e.g. free weights, stretching, etc. (col. 5,

ll. 32-35) An exercise data input terminal for supplying exerciser data to the central computer may also be incorporated into the network. Exercise data can include weight, pulse rate blood pressure, etc. (see col. 5, ll. 17-44 generally).

Figure 5 of Shea shows an exercise terminal having an interface 202 to a communications link 106 (which connects to the central computer). "Interface 202 controls the transfer of data over the network and may comprise, for example, a modem or a LAN controller and a LAN driver." (col. 6, ll. 39-41) Likewise, Figure 8A shows an exercise station terminal having an interface 262 that "controls the exchange of data over the network". (col. 11, l. 9). Similarly, Figure 9 shows an exerciser data input terminal including an exercise data input device for inputting exerciser data through interface 402 to the network. (col. 11, ll. 51-56)

In the case of both the exercise terminal and the exercise station terminal, these devices are located at specific locations, whether in a health club or some other location. These terminals connect to a central network. The system of the Shea patent simply connects several stationary exercise devices to a central computer that maintains a database of exerciser information, exercise programs, and equipment availability (see, e.g. Fig. 3). The only portable device discussed in the Shea patent is a portable memory module that "mate[s] with the control system of stationary bicycle 200 [of the stationary bicycle] so that processor 201 can read/write data from/to the portable memory module". (col. 6, ll. 60-63)

In contrast to the Shea patent, independent claim 1 positively recites "a portable system capable of being carried by a user during performance of the exercise program, the portable system being in communication with the exercise mechanism and the communication system" (emphasis added). Additionally, the portable system is capable of "retrieving the exercise program from the communication system, delivering the exercise program to the user of the

exercise mechanism, delivering the at least one control signal to the exercise mechanism, and tracking at least one measurable parameter of the user". Likewise independent claims 19, and 32 as amended, recite language similar to "A portable system capable of being worn by a user comprising ... a control device carried by the user during the user's performance of the exercise program, the control device being configured to communicate with a remote communication system and the exercise mechanism". The portable system further includes a delivery device and a sensor. In summary, the portable device of the present invention, as outlined in claims 1, 19, and 32, is capable of i) being carried or worn by the user during performance of an exercise program, ii) connecting to both the communication system and the exercise device, iii) providing a control signal to the exercise device, iv) providing motivational content, such as an audio program, to the user, and v) measuring and storing at least one measurable parameter of the user, such as heart rate or distance traveled. There is nothing in the Shea patent to suggest such a portable system.

The She patent neither teaches nor suggests that any portable device that can be carried or worn during performance of an exercise program, that connects to the communication system, stores or transmits exerciser information to the communication system, that connects to both an exercise device and a communication system, that stores and transmits measurable parameters of the user to the communication system, and that provides motivational content, such as an audio program, to the user.

Applicants therefore respectively submit that each and every claim limitation of pending independent claims 1, 19 and 32, as amended and presented herein, are neither disclosed in the Shea patent, nor obvious variations of the system and apparatus disclosed therein. Similarly, dependent claims 2-18, 19-24, 26-31, and 33-41 include the limitations of independent claims 1,

19 and 32 respectively. Accordingly, it is respectfully submitted that dependent claims 2-18, 19-24, 26-31, and 33-41 as amended and presented herein, are neither disclosed in the Shea patent nor obvious variations of the system and apparatus disclosed therein. Consequently, claims 1-24 and 26-41, as amended and presented herein, overcome the rejections based on Section 102.

D. Summary and Conclusion

In view of the foregoing, Applicants respectfully request favorable reconsideration and allowance of the present claims. In the event that the Examiner finds any remaining impediment to the prompt issuance of the pending claims, which could be remedied through a telephonic conversation, or which is susceptible to being overcome by means of an Examiner's Amendment, the Examiner is respectfully invited to initiate the same with the undersigned attorney.

Dated this 29 day of September, 2004.

Respectfully submitted,



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